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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,807	02/09/2004	Michael J. Duffy	TPL 0134 PUS	9247

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EXAMINER

KYLE, MICHAEL J

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/774,807	Applicant(s) DUFFY, MICHAEL J.	
	Examiner Michael J. Kyle	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, and 4-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Germann (U.S. Patent No. 3,024,488). With respect to claims 1, 4, 5, Germann discloses a closure hinge comprising a mount (11), a pivot link (20), a pivot (25), and a spring (30) having a laterally coiled strand extending from a first coil end to a second coil end, and having a first end (on 32) at the first coil end (31) and a second end (at 33) with a longitudinally extended portion along a longitudinal direction of the coil to a position at the first end, wherein the first and second ends bias the link and the mount at the first coil end. The first strand end and the second stand end terminate at a substantially coplanar position. The pivot link (20) is a gooseneck arm.

3. With respect to claims 6 and 7, Germann discloses the first and second ends to include radially extending arm portions (31, 32). One of the arm portions (32) has a terminal portion pivotally secured to the mount (at 34).

4. With respect to claims 8 and 9, Germann discloses both the first and second ends to include radially extending arm portions (31, 32) having terminal portions. The first terminal portion is pivotally secured about a first spring arm axis (at 33) to the pivot link (20), and the second terminal portion is pivotally secured about a second spring arm axis (at 34) to the mount. The

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spring arm axis and the second spring arm axis are spaced from and parallel to the pivot axis flange (at 25).

5. With respect to claim 10, Germann discloses a method biasing a vehicle closure hinge comprising the steps of mounting a pivot axis flange (on 11) on a bordering structure, aligning a pivot link (20) adjacent the pivot axis flange, coupling the pivot link to the pivot axis flange (via 25), and biasing the pivot link about the pivot axis flange with a laterally coiled strand spring (30). The strand has first and second ends (at 33 and 34, respectively). The first strand end extends along a longitudinal direction of the coil to a position at the first coil end. The biasing acts about the pivot axis.

6. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Lewis (U.S. Patent No. 5,419,012). Lewis discloses a closure hinge comprising a mount (28) with a pivot axis flange, a pivot link (20, 30), and a pivot (at A) coupling the pivot link to the pivot axis flange. Lewis further discloses a laterally spring (46) extending from a first coiled end to a second coiled, with a first strand end coupled to the pivot link (on 30) and a second strand end coupled to the mount. The pivot link is a gooseneck bar. The first strand end is pivotally coupled to the pivot link (at 30), and engages a lever (30) carried by the pivot link. The lever includes a second pivot (at 34) coupling to the pivot link. Examiner notes that the coils of the spring in Lewis extend in a lateral direction (left or right, as shown in figure 2).

Claim Rejections - 35 USC § 103

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7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 3, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Germann. Germann does not show the longitudinally extended portion of the spring (at 33) to be positioned coaxially or aligned within the coil. However, the location of the longitudinal extending portion, whether it be within or outside the coil, does not appear to produce a new or unexpected result over the prior art. One having ordinary skill in the art would recognize that to extend one strand end to the other end of the coil, there must be a longitudinal portion to the strand, and the location of this longitudinal portion does bring about a new or unexpected result or provide a clear advantage over the known arrangements. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Germann such that the longitudinal portion extends coaxially within the coil, as this bring about no new advantage over the prior art, and appears to be an equivalent alternative to that which Germann shows.

9. Claims 12, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Shelton (U.S. Patent No. 4,458,379) in view of Lewis. Shelton discloses a closure hinge comprising a mount (16) with a pivot axis flange, a pivot link (18), and a pivot (36) coupling the link to the pivot axis flange. Shelton also discloses a spring (40) with a first strand end (64) coupled to the pivot link (18) and a second strand end (extending through 46) coupled to the

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mount. Shelton discloses the coiled strand to be coaxial to the pivot axis. Shelton does not show the link to be a gooseneck bar.

10. Lewis teaches a closure hinge with a mount (28), a pivot link (20), and a pivot (at A). The pivot link is a gooseneck bar. Gooseneck bars are commonly used so that a lid can move away from a vehicle body in a spaced relationship when moving from a closed position to an open position. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Shelton, such that the pivot link is a gooseneck bar, so that a lid can move away from a vehicle body in a spaced relationship when moving from a closed position to an open position.

11. With respect to claims 18 and 19, Shelton discloses the first strand end (64) being coupled to the pivot link (18) at a position (48) spaced from the pivot axis (at 36). The second strand (Extending through 46) is coupled to the mount (at 46) at a position spaced from the pivot axis (at 36).

Response to Arguments

12. Applicant's arguments filed October 17, 2005, have been fully considered but they are not persuasive.

13. Applicant argues that Germann does not show the strand ends of the coiled spring extend to a position at the first end and that the first and second ends bias the link at the first coil end. Examiner respectfully disagrees. Given the spiral nature of the coils, both in the instant application and the prior art, there is no single position, but rather a range of end positions. Absent any further limitation in the claims regarding the position of the strand ends relative to

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the end portions of the coil, the strand end of Germann is considered to extend to the end portion of strand in that it extends to an end region. Because the pivot point is in an end region or portion of Germann, it is considered to meet the claimed limitation that the first and second strand ends bias the link at this end.

14. Applicant argues that a new and unexpected structure is present in the instant application. Examiner notes the rejections of claims 2, 3, and 11, are based on 103(a), and on the fact that there appears to be no new or unexpected *results* arising from the claimed structure. Examiner concedes that Germann fails to show the longitudinally extending portion of the spring to be positioned coaxially or aligned within the coil. Applicant fails to address any new or unexpected results or advantages that arise out the different structure. Absent of this showing, this structure appears to be equivalent to that of prior art as it used to bring about the same result as the prior art.

15. With respect to claim 12, applicant traverses the rejection based on the combination of Shelton and Lewis. Applicant argues that Shelton's hinge differs from a deck lid hinge in the direction it is biased and latched. Examiner notes that a deck lid hinge, or structure associated with a deck lid hinge is not claimed. Additionally, a biasing direction is not claimed. Applicant argues the difference in biasing directions of the two references would not suggest the combination of the two references. Examiner respectfully disagrees. Lewis is cited for the teaching of a gooseneck hinge, which allows a lid to move away from a body during operation of the hinge. It does not appear that implementing such a hinge into Shelton would destroy Shelton's inventions, and would provide the identical benefits of a gooseneck hinge that are taught by the prior art, regardless of the biasing direction.

Conclusion

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

17. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Kyle whose telephone number is 571-272-7057. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

19. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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20. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mk


ROBERT J. SANDY
PRIMARY EXAMINER